



February 23, 1999

Mr. Richard D. Monroe
General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR99-0521

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 122433.

The Texas Department of Transportation (the “department”) received a request for information concerning the position of Division Director of the Human Resources Division, Job Vacancy Notice No. 8-53-H800-563. You contend that some of the requested documents, specifically the completed screening instruments and interview questions and answers, are excepted from disclosure pursuant to section 552.122 of the Government Code.

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term “test item” in section 552.122 includes any standard means by which an individual’s or group’s knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee’s overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). In Open Records Letter No. 99-0261 (1999), we determined that the submitted interview questions and answers are not excepted from disclosure under section 552.122(b). The only additional documents at issue are the completed screening instruments. We find that these documents are not excepted from disclosure under section 552.122(b). Thus, the department must release all of the submitted documents to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, reading "Karen Hattaway". The signature is written in dark ink and is positioned above the printed name.

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref:: ID# 122433

Enclosures: Submitted documents

cc: Mr. John Gilbert
2900 South First, #614
Austin, Texas 78704
(w/o enclosures)